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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Efraim Almada, Jr.,

No. CV-19-4881-PHX-ESW

9  
10 Plaintiff,

**ORDER**

11 v.

12 Commissioner of the Social Security  
13 Administration,

14 Defendant.  
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18 On May 27, 2020, the Court issued an Order reversing the Social Security  
19 Administration's ("Social Security") denial of Plaintiff's applications for disability  
20 insurance benefits and supplemental security income and remanding the matter to the  
21 Commissioner of Social Security for an immediate award of benefits. (Doc. 28).  
22 Pending before the Court is the Commissioner's "Motion to Alter or Amend Judgment  
23 Pursuant to Federal Rule of Civil Procedure 59(e)" (Doc. 30). Plaintiff has filed a  
24 Response (Doc. 33), to which the Commissioner has replied (Doc. 34).

25 Under Rule 59(e) of the Federal Rules of Civil Procedure, a party may file a  
26 "motion to alter or amend a judgment." The Ninth Circuit has explained that  
27 [s]ince specific grounds for a motion to amend or alter are not  
28 listed in the rule, the district court enjoys considerable  
discretion in granting or denying the motion." *McDowell v.*

1 *Calderon*, 197 F.3d 1253, 1255 n.1 (9th Cir. 1999) (en banc)  
2 (per curiam) (internal quotation marks omitted). But  
3 amending a judgment after its entry remains “an  
4 extraordinary remedy which should be used sparingly.” *Id.*  
5 (internal quotation marks omitted). In general, there are four  
6 basic grounds upon which a Rule 59(e) motion may be  
7 granted: (1) if such motion is necessary to correct manifest  
8 errors of law or fact upon which the judgment rests; (2) if  
9 such motion is necessary to present newly discovered or  
previously unavailable evidence; (3) if such motion is  
necessary to prevent manifest injustice; or (4) if the  
amendment is justified by an intervening change in  
controlling law. *Id.*

10 *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011). Rule 59(e) “may not be  
11 used to relitigate old matters, or to raise arguments or present evidence that could have  
12 been made prior to the entry of judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471,  
13 485 n.5 (2008) (citation omitted). A Rule 59(e) “motion is not a substitute for appeal and  
14 does not allow the unhappy litigant to reargue the case.” *Bollenbacher v. Comm'r of Soc.*  
15 *Sec.*, 621 F. Supp. 2d 497, 501 (N.D. Ohio 2008).

16 In its May 27, 2020 Order, the Court concluded that the Administrative Law Judge  
17 (“ALJ”) failed to provide valid reasons for discounting the opinions of Plaintiff’s treating  
18 psychiatrist Karl Marku, M.D. (Doc. 28 at 6-9). The Commissioner asserts that the  
19 Court committed clear error by remanding the matter for an award of benefits instead of  
20 further proceedings. (Doc. 30). According to the Commissioner, the Court failed to  
21 adequately analyze whether there are any outstanding issues on which further  
22 administrative proceedings would be useful. (*Id.* at 5-7). The Commissioner does not  
23 argue that the record is incomplete. Instead, the Commissioner argues that there are a  
24 number of inconsistencies in the record that should be addressed by the ALJ. The Court  
25 affirms its implicit finding that the record in this matter is fully developed.<sup>1</sup> “Given this  
26 fully developed record, the admission of more evidence would not be ‘enlightening,’


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28 <sup>1</sup> This finding is implicit in the Court’s statement “After examining the record, the  
Court finds no outstanding issues of fact to be resolved through further proceedings.”  
(Doc. 28 at 12).

1 *Treichler*, 775 F.3d at 1101, and ‘remand for the purpose of allowing the ALJ to have a  
2 mulligan [does not qualify] as a remand for a ‘useful purpose,’ *Garrison*, 759 F.3d at  
3 1021.” *Henderson v. Berryhill*, 691 F. App’x 384, 386 (9th Cir. 2017) (citing *Treichler v.*  
4 *Comm’r of Soc. Sec. Admin.*, 775 F.3d 1090, 1100 (9th Cir. 2014) and *Garrison v. Colvin*,  
5 759 F.3d 995, 1021 (9th Cir. 2014)). Further, although there may be some doubt in the  
6 record as to whether Plaintiff is disabled, the Court affirms its finding that there is not  
7 “serious doubt.” (Doc. 23 at 10). Because (i) the ALJ failed to provide legally sufficient  
8 reasons for discounting Plaintiff’s symptom testimony, (ii) the record is fully developed  
9 and there are no outstanding issues that must be resolved before a disability  
10 determination can be made (i.e. further administrative proceedings would not be useful),  
11 (iii) crediting Plaintiff’s testimony as true would require the ALJ to find Plaintiff disabled  
12 on remand, and (iv) there is not “serious doubt” as to whether Plaintiff is disabled, the  
13 Court did not commit clear error by exercising its discretion to remand this case for an  
14 award of benefits. *See Garrison*, 759 F.3d at 1020 (noting that the Ninth Circuit has  
15 “stated or implied that it would be an abuse of discretion for a district court not to remand  
16 for an award of benefits when all of these conditions are met”). The Court concludes that  
17 the Commissioner has not presented a valid basis for granting Rule 59(e) relief.  
18 Accordingly,

19 **IT IS ORDERED** denying the Commissioner’s “Motion to Alter or Amend  
20 Judgment Pursuant to Federal Rule of Civil Procedure 59(e)” (Doc. 30).

21 Dated this 3rd day of August, 2020.

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26 Honorable Eileen S. Willett  
27 United States Magistrate Judge  
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